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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 001295

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SUBJECT: PRC: NEW MFA BOUNDARY AND OCEAN AFFAIRS DEPARTMENT
TO FOCUS ON TECHNICAL, LEGAL AFFAIRS

REF: HANOI 362

Classified By: Political Minister Counselor Aubrey Carlson. Reasons 1.
4 (b/d).

Summary

11. (C) The recently-established MFA Department of Boundary and Ocean Affairs would focus more on technical and legal issues than on policy matters, including providing advice on incidents involving USNS vessels in the South and East China seas, Maritime Delimitation Division Director Yang Li told PolOff May 13. On the UN Convention on the Law of the Sea (UNCLOS), Director Yang emphasized that China had formally submitted to the Commission on the Limits of the Continental Shelf (CLCS) only "preliminary information" on its continental shelf claims in the East China Sea and affirmed that China reserved the right to provide information on China's claims in other sea areas in the future. China objected to the recent Malay-Vietnam joint submission to the CLCS because that submission included areas under dispute, which the CLCS did not have the mandate to address. While "channels of dialogue" existed among China and ASEAN members on the 2002 China-ASEAN Declaration of Conduct of Parties in the South China Sea (DOC), China did not expect any agreement soon on guidelines to supplement the DOC. End Summary.

12. (C) MFA Boundary and Ocean Affairs Department Maritime Delimitation Division Director Yang Li told PolOff May 13 that the recent creation of the new MFA department (consisting of Maritime Delimitation, Border Demarcation, Border Management, and General divisions) was a "normal adjustment" to an increased workload on border and maritime issues and not a response to any specific issue. Director Yang (who moved to his current position from the Treaty and Law Department) indicated that the new department would focus more on technical and legal issues rather than policy issues, though he said often such aspects are "difficult to separate."

Maritime Incidents Involving USNS Vessels

13. (C) Director Yang stated that the Maritime Delimitation Division had provided technical and legal advice on the recent incidents involving USNS vessels in the South and East China seas. Asked the number of times China had accused other nations' vessels of conducting illegal activities in China's EEZ, Yang said that to his knowledge, China had only made such statements in regards to the USNS incidents.

Submission under UNCLOS

14. (C) Regarding submissions to the UN Commission on the Limits of the Continental Shelf (CLCS) under UNCLOS, Director Yang emphasized the distinction between China's May 12 submission of "preliminary information" to the CLCS on its

continental shelf claims in the East China Sea and the recent joint "submission" offered by Malaysia and Vietnam. As provided for under UN guidelines, Yang said, China reserved the right to expand on its preliminary information submission, including providing information on China's claims in other sea areas.

15. (C) Director Yang affirmed that China objected to the joint Malaysia-Vietnam submission because the claim included areas disputed by China. China had requested that the UN reject the joint submission because, as a technical body, the CLCS was not mandated to resolve disputed claims, unless all countries party to the dispute consented to such a submission, which, Director Yang said, China had not.

16. (U) Director Yang noted that while his division handled UNCLOS matters, issues related to the International Seabed Authority, Arctic and Antarctic seas remained under the purview of the MFA Treaty and Law Department.

No Comment on Code of Conduct in the South China Sea

17. (C) Director Yang noted that the 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea (DOC) was "an expression of political will" by the signatory countries, and China hoped that all parties would act to maintain stability in the South China Sea. Yang acknowledged "channels of dialogue" between China and ASEAN countries on the DOC, separate from the broader ASEAN-plus-China ("10-plus-1") dialogue mechanism. He said China had "no position" on developing guidelines to supplement the DOC

BEIJING 00001295 002 OF 002

(reftel), stating that "this would be left up to countries in the region," which were all on "equal footing" in such discussions. Director Yang suggested, however, that no specific new agreement on guidelines or otherwise strengthening the DOC was likely in the near future.
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